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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,356	06/19/2006	Jacqueline Jones	9242	2385

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Legal Department (M-495)
P.O. Box 1926
Spartanburg, SC 29304

EXAMINER
JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
09/14/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/552,356	JONES, JACQUELINE	
	Examiner	Art Unit	
	Cheryl Juska	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8,10-16,18 and 20-22* is/are pending in the application.

4a) Of the above claim(s) *8,10-12,16,18 and 20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,13-15,21 and 22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed June 5, 2009, has been entered. Claims 1 and 5-7 have been amended as requested. Claims 9, 17, and 19 have been cancelled, while new claims 21 and 22 have been added. Thus, the pending claims are 1-8, 10-16, 18, and 20-22, with claims 8, 10-12, 16, 18, and 20 being withdrawn as non-elected.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 and 13-15 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention as set forth in sections 3 and 4 of the last Office Action (Non-Final Rejection mailed 01/08/2009).

4. Applicant has amended independent claim 1 in an attempt to overcome said rejection. However, said amendment is insufficient since it is still unclear if the carpet tile has a pile surface or a non-pile surface to which the visual texture is applied. In other words, the claims are indefinite because the structure of the carpet tile is indefinite. Is the carpet tile comprised of a

fabric surface? A tufted, nonwoven, or woven pile fabric? Or, a non-pile woven, knit, or nonwoven fabric?

5. New claims 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for their dependency upon claim 1.

6. Claim 5 is rejected as being indefinite because it is unclear if the recitation to the orientation of the pattern on each of the tiles is with respect to tiles as cut from a carpet web, to tiles randomly associated (e.g., in a stack, packaged in a box, etc.), or installed on a flooring. In other words, it is unclear if applicant intends to encompass tiles that are manufactured to be identical, but installed at various rotations. Note applicant's claims do not limit the set of carpet tiles to be installed with respect to one another.

Claim Rejections - 35 USC § 102/103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-7 and 13-15 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US 5,959,632 issued to Hashimoto et al. as set forth in section 7 of the last Office Action.

The amendments to the claims do not patentably distinguish the present invention from the prior art of Hashimoto. Applicant traverses the rejection by asserting that the claims now positively recite the textural design simulates a pile having a pile direction rather than just providing an "impression" of pile direction (Amendment, page 4, 6th paragraph). However, this

argument is found unpersuasive since the claimed limitation of a "visual texture having a textural design simulating a pile having a pile direction" can still be inherently met by having a carpet tile with a printed design. In particular, it is argued that the recitation of "simulating a pile" is a subjective description which can be interpreted broadly by a viewer. For example, a mere change in color or pattern in a carpet tile can be viewed as *simulating* a different pile direction of said carpet tile. In the alternative, it would have been readily obvious to one skilled in the art to print a pattern such that it would create the appearance of a different pile direction. Motivation to do so would be to enhance the non-directional orientation of the carpet tile for ease of installation. Therefore, claims 1-7 and 13-15 stand rejected as being obvious over the cited prior art.

Claim Rejections - 35 USC § 102

9. Claims 1, 4-7, and 15 stand rejected under 35 U.S.C. 102(b) as anticipated by US 2002/0136855 issued to Daniel et al. as set forth in section 8 of the last Office Action.

Applicant traverses the rejection of the claims over Daniel by asserting the reference does not teach a "textural design simulating a pile having a pile direction" (Amendment, page 4, 5th paragraph). To reiterate, it is argued that the recitation of "simulating a pile" is a subjective description which can be interpreted broadly by a viewer, wherein a mere change in color or pattern can be viewed as simulating a different pile direction. Hence, it is argued that the design features of the Daniel reference inherently "simulates a pile having a pile direction" as claimed by applicant.

Regarding amended claims 5-7, while Daniel does not necessarily teach the specific limitations of said claims, the reference will inherently provide a set of patterned square carpet tiles wherein each tile has the same pattern, but oriented in different rotation as presently claimed. Specifically, the carpet web of Daniel from which the tiles are cut will inherently repeat itself so that four tiles having the same pattern will be produced, wherein said four tiles may be installed at various rotations with respect to one another. Hence, the claims stand rejected.

Claim Rejections - 35 USC § 103

10. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Hashimoto reference.

11. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Daniel reference.

Neither Hashimoto nor Daniel teaches a textural design that simulates the appearance of loop piles, in particular high and low loop pile. However, said designs are rejected as being obvious over the prior art. Specifically, it has been held that matters relating to ornamentation only which have no mechanical function cannot serve to patentably distinguish the claimed invention from the prior art. *In re Seid*, 73 USPQ 431. The choice of a particular design is within the level of ordinary skill in the art wherein said design choice would have yielded predictable results to said skilled artisan. Hence, claims 21 and 22 are rejected as being obvious over the prior art.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached at 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cheryl Juska/
Primary Examiner
Art Unit 1794

cj
September 14, 2009